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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/520,890	03/07/2000	Erich Guenther	Q55501	9865

7590 09/30/2004  
Sughrue Mion Zinn MacPeak & Seas P LLC  
2100 Pennsylvania Avenue NW  
Washington, DC 20037-3213

EXAMINER

TRAN, MYLINH T

ART UNIT	PAPER NUMBER
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2179

DATE MAILED: 09/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/520,890

Applicant(s)

GUENTHER, ERICH

Examiner

Mylinh T Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02/26/04 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Applicant's RCE 09/20/04 has been entered and carefully considered. Claims 1, 4, 7, 13, 22, 28, 29, 33 and 37 have been amended. However, limitations of amended claims have not been found to be patentable over the prior arts or record, therefore, claims 1-37 are rejected under the same ground of rejection as set forth in the Office Action mailed 09/17/04.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 13, 14-16, 19-20, 22, 25-26 and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Callahan et al. [US. 6,396,473]

As to claims 13, 22 and 28, Callahan et al. teaches a computer implemented method and corresponding apparatus for creating a page window for a computer display screen comprising the steps/means for retrieving a base image (figure 1, video background of a car and driver in the mountain, column 5, lines 20-25) composed of at least one base image (elements: car,

driver of figure 1) and secondary element from storage (figure 1, transparent overlay graphic image of a baseball game score box) and merging the retrieved base image with the retrieved secondary image to form a page window (figure 1, column 4, lines 15-45) and displaying the page window on a computer display screen (figure 2, column 5, lines 30-50); wherein the retrieved secondary image completely overlays the retrieved base image, thereby creating the page window (figure 1, figure 4a-4B, column 4, lines 15-55).

As to claim 14, Callahan et al. also teaches loading the retrieved base image into a display memory (column 2, lines 55-68).

As to claim 15, Callahan et al. demonstrates determining which secondary image to retrieve from a plurality of secondary images (column 6, line 62 through column 7, line 7).

As to claim 16, Callahan et al. also demonstrates storing the retrieved secondary image in display storage (column 5, lines 20-28).

As to claims 19 and 25, Callahan et al. shows modifying the retrieved base image by adding the secondary image elements of the retrieved secondary image to the base image elements of the retrieved base image (figure 1 and 4A, column 4, lines 15-45).

As to claims 20 and 26, Callahan et al. also shows modifying the retrieved base image by blanking out selected base image elements of the retrieved

base image according to the secondary image elements of the retrieved secondary image (figure 1, left corner, column 4, lines 15-45).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12, 17-18, 21, 23-24, 27 and 29-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyagaki et al. [US. 4,942,515] in view of Callahan et al.

As to claims 1 and 8-9, Miyagaki et al. discloses a computer implemented method and corresponding apparatus for creating a page window for a computer display screen comprising the steps/means for an image (column 7, line 63 through column 8, line 12) including at least a control element (column 3, lines 45-54), a static element (column 4, lines 62-68) and a status element (column 4, line 18-25) for display on the page screen. The difference between Miyagaki et al. and the claim is multiple images with first (base) and secondary images and wherein the at least one secondary image completely overlays the base image and the base image element, thereby creating the page window. Callahan et al. shows the first base image (figure 1, video background of a car and driver in the mountain, column 5, lines 20-25), the

secondary image (figure 1, transparent overlay graphic image of a baseball game score box) and wherein the at least one secondary image completely overlays the base image and the base image element, thereby creating the page window (figure 1, figure 4a-4B, column 4, lines 15-55). It would have been obvious to one of ordinary skill in the art, having the teachings of Miyagaki et al. and Callahan et al. before them at the time the invention was made to modify the image elements like control, status and static as taught by Miyagaki et al. to include the method of teaching multiple images by combine them together of Callahan et al., with the motivation being to allow a user to conveniently manage element function on the merging image as taught by Callahan et al.

As to claim 4 and 7, the claim is analyzed as previously discussed with respect to claim 1 except for the feature of a plurality of secondary images, each secondary image including at least one secondary image element (figure 4A, the baseball game score box); wherein each of the plurality of page windows presented by the computer controlled process is formed by a merger of at least one of the plurality of secondary images with the base image (column 4, lines 15-67).

As to claims 2, 6, 12, 21, 27, 32 and 36, Callahan et al. teaches the base image is derived from a plurality of base images (column 4, lines 44-55).

As to claim 3, Callahan et al. also teaches the at least one secondary image comprises a plurality of secondary images (column 4, lines 40-44).

As to claim 5, while Miyagaki et al. shows functional elements, Callahan et al. teaches modifying of the first and second image (figure 1).

As to claims 10 and 11, while Miyagaki et al. provides control and status stimuli (column 3, lines 35-66), Callahan et al. teaches modifying the base image (figure 1, video background of a car and driver in the mountain, column 5, lines 20-25).

As to claims 17-18 and 23-24, while Miyagaki shows the control element, the static element and the status element (column 3, lines 45-54, column 4, lines 62-68 and lines 18-25), Callahan et al. teaches retrieving the base and secondary image (column 5, lines 20-30).

As to claims 29, 33 and 37, while Miyagaki et al. also provides control or status elements, Callahan et al. teaches retrieving a base image and secondary (column 5, lines 20-30); and merging the retrieved base image with the retrieved secondary image to form a page window (figure 1); displaying the page window on a computer display screen (figure 2, column 5, lines 30-50).

As to claim 30, Callahan et al. shows modifying the retrieved base image by adding the secondary image elements of the retrieved secondary image to the base image elements of the retrieved base image (figure 1).

As to claims 31, Callahan et al. also shows modifying the retrieved base image by blanking out selected base image elements of the retrieved base

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image according to the secondary image elements of the retrieved secondary image (figure 1, left 15-45corner, column 4, lines).

As to claims 34, Callahan shows modifying the retrieved base image by adding the secondary image elements of the retrieved secondary image to the base image elements of the retrieved base image (figure 1).

As to claims 35, Callahan et al. also shows modifying the retrieved base image by blanking out selected base image elements of the retrieved base image according to the secondary image elements of the retrieved secondary image (figure 1, left corner, column 4, lines 15-45).

### ***Conclusion***

Responses to this action should be mailed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231. If applicant desires fax a response, (703) 872-9306, may be used for all fax. NOTE, A Request for Continuation (Rule 60 or 62) cannot be faxed.

Please label "PROPOSED" or "DRAFT" for information facsimile communications. For after final responses, please label "AFTER FINAL" or "EXPEDITED PROCEDURE" on the document. Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Fourth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mylinh Tran whose telephone number is



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(703) 308-1304. The examiner can normally be reached on Monday-Thursday from 8.00AM to 4.30PM

If attempt to reach the examiner by telephone are unsuccessful, the examiner 's supervisor, Heather Herndon, can be reached on (703) 308-5186, should be directed to the Group receptionist whose telephone number is (703) 305-3800.

Mylinh Tran

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BA HUYNH  
PRIMARY EXAMINER